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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,072

12/09/2005

Kiyohito Ishida

31238-225900

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7590

12/08/2008

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EXAMINER

ZHU, WEIPING

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/560,072	ISHIDA ET AL.	
	Examiner	Art Unit	
	WEIPING ZHU	1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 1, 4 and 8-13 are currently under examination, wherein claim 1 has been amended in applicant's amendment filed on September 24, 2008. The non-elected claims 14-19 have been cancelled in the same amendment.

Status of Previous Rejections

2. The previous rejections of claims 1, 4 and 8-13 under 35 U.S.C. 103 (a) as stated in the Office action dated July 2, 2008 have been maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2003-155552 A as stated in the Office action dated July 2, 2008.

With respect to the amended feature of the carrier gas atmosphere being spatially continued from the carburizing atmosphere in the instant claim 1, JP ('552 A) discloses that the heating chambers 6, 7, 8 and 9 are not partitioned with vacuum doors (abstract), which reads on the claim limitation. JP ('552 A) discloses that although the doors are provided, they are used to hold the temperature in each chamber only (paragraph [0025], machine translation). It would have been obvious to one of ordinary skill in the art that these doors would be kept open all the time during a continuous

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carburization treatment wherein the desired temperatures in each chamber are the same and the desired material to be treated has a length greater than the total length of JP ('552 A)'s continuous vacuum carburizing apparatus.

With respect to the amended feature of continuously passing one of a continuous material in the instant claim 1, JP ('552 A) discloses that the continuous vacuum carburizing process can be used to carburize metallic materials (paragraph [0004]) without limit the shapes and dimensions of the metallic materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to continuously pass one of a continuous material through JP ('552 A)'s continuous vacuum carburizing apparatus to continuously carburize the continuous material as claimed with expected success, because JP ('552 A) discloses the same utility for continuously carburizing metallic materials of any shapes and dimensions which can be accommodated in JP ('552 A)'s continuous vacuum carburizing apparatus. See MPEP 2144.05 I.

4. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP ('552 A) as applied to claim 1 above in view of Poor et al. (US Pub. 2003/0089426 A1) as stated in the Office action dated July 2, 2008.

Response to Arguments

5. The applicant's arguments filed on September 24, 2008 have been fully considered but they are not persuasive.

The applicant argues that JP ('552 A) teaches away from continuously passing one of a continuous material through the carburizing atmosphere and the carrier gas

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atmosphere to carburize the one continuous material as claimed in the instant claim 1; and that the doors in JP ('552 A) also teach away from the same limitation. In response, see the reasons for the rejections of the amended features in the instant claim 1 as discussed in the paragraph 3 above. Furthermore, the rejection was based on the prior art's broad disclosure rather than preferred embodiments. See MPEP 2123. It is also well held that mere disclosure of alternative designs does not teach away. See *In re Fulton*, 391 F. 3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Weiping Zhu whose telephone number is 571-272-6725. The examiner can normally be reached on 8:30-16:30 Monday to Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/
Supervisory Patent Examiner, Art
Unit 1793

WZ

11/24/2008

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	10/560,072	ISHIDA ET AL.	
	Examiner	Art Unit	
	WEIPING ZHU	1793	